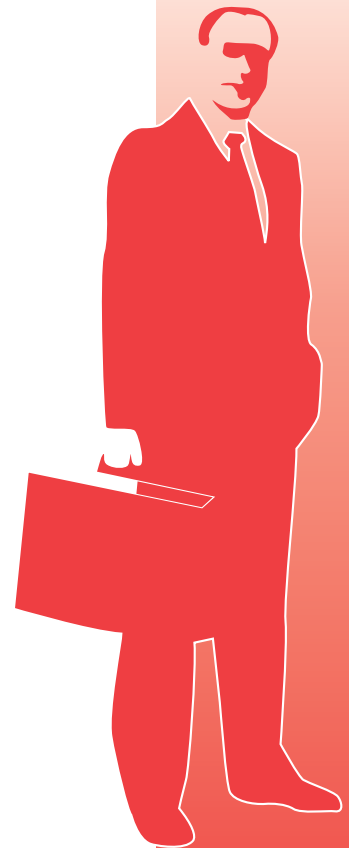




EMPLOYMENT AFTER RETIREMENT

**TEACHER
RETIREMENT
SYSTEM OF
TEXAS**



March 2004

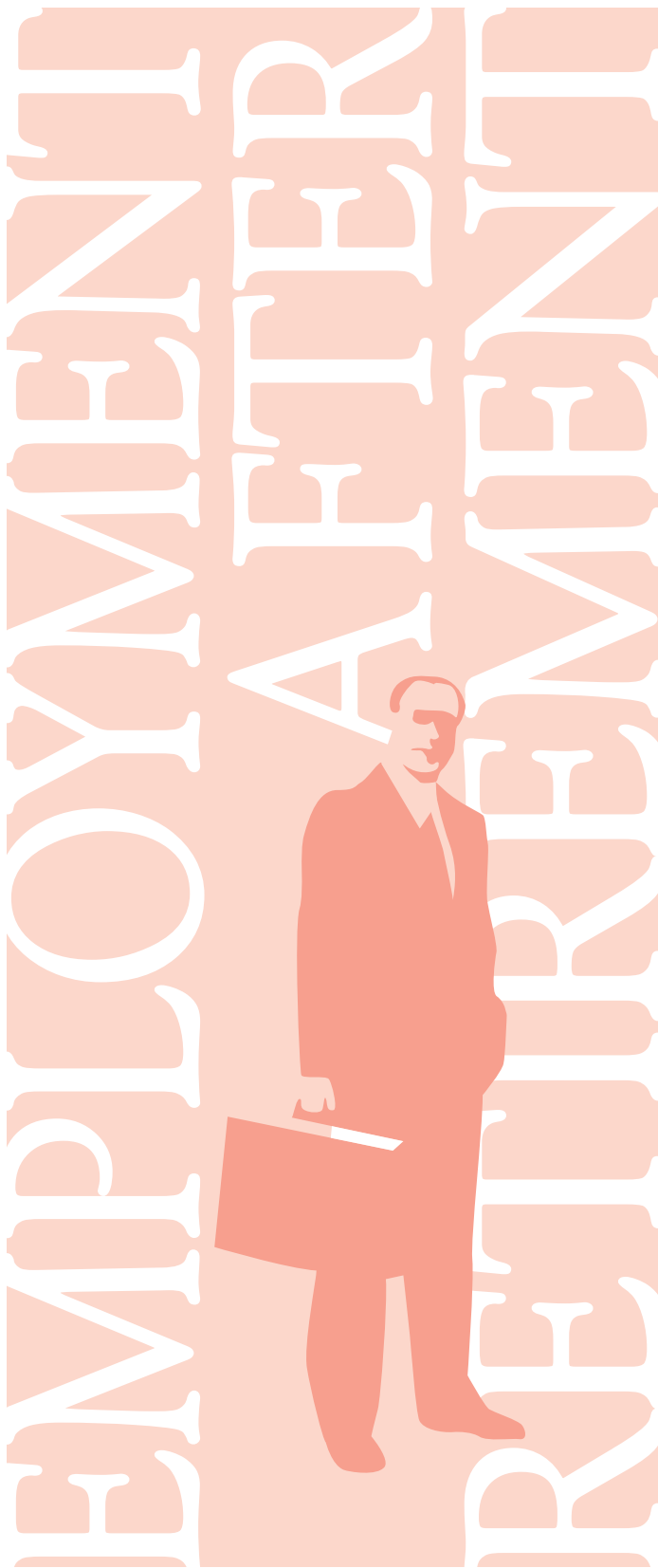


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If you plan to retire and then return to work for a TRS-covered employer, it is important that you understand laws and rules pertaining to employment after retirement. In an effort to assist members with frequently asked questions, TRS has published this brochure. As updated information becomes available, it will be posted to the TRS Web site at www.trs.state.tx.us.

As a TRS retiree, you can work for anyone other than a Texas public educational institution, and your employment will not be reported to TRS. However, if you return to work for a Texas public educational institution, your employment must be reported to TRS unless you retired prior to January 1, 2001, and are not a disability retiree.

The following pages provide answers to the most frequently asked questions on employment after retirement:

1. What are Texas public educational institutions?

They are independent school districts, regional education service centers, certain charter schools, junior (community) colleges, senior colleges and universities, medical schools and dental schools that are entitled by law to be supported in whole or in part by state, county, school district, or other municipal corporation funds.



2. Are retirees treated differently based on their retirement date?

Yes. Anyone who retired prior to January 1, 2001 (and is not a disability retiree) may work an unlimited amount of time each year in Texas public education **without loss of retirement benefits.** There are no restrictions.

The following questions and answers [#3 through #13] relate **ONLY** to service retirees who retired after January 1, 2001, or future service retirees.

3. What is considered to be the first month of the school year for a retiree returning to work?

September is the first month. August is the last month. The school year for a retiree begins September 1st and ends August 31st of the next year. Therefore, even though the new school year may begin in August, August is considered the last month of the prior year for a retiree.

4. Can I negotiate an agreement with my employer to return to work before I actually retire?

Normal age retirees may not have a contract, agreement, or promise of future employment at the time of retirement unless it is for work (1) on a one-half-time basis, or (2) as a bus driver. If your agreement is for employment for the school year after your retirement, you may also agree to full-time employment that does not exceed six months. If you have an agreement to work full time for more than six months, you are not eligible to retire. You may negotiate a contract for full-time employment after your absence from service for one full calendar month following your retirement; however, you will forfeit your retirement benefits for any month you work beyond the six months. If you retired with a May 31 retirement date and your employment extended into June, you may not negotiate a contract for full-time employment until after the required two months of absence from service.

A normal age retirement is: (1) at age 65 with five or more years of service credit, or (2) when age and years of service credit total 80 with at least five years of service credit.

Early age retirees may not have a contract, agreement, or promise of future employment at the time of retirement.



Negotiations to return to work may not occur until after the

required break in service.

Early age retirement is: (1) when the retiree's age plus years of service credit

are less than 80 and he or she is at least age 55 with five or more years of service credit, or (2) when the retiree is any age below age 50 with 30 or more years of service credit.

Members who enter into contracts, agreements, or promises to return to work that do not meet the requirements described above are not eligible to retire and risk revocation of their retirement and the loss of all associated benefits of retirement.

5. I have been told I cannot go back to work in Texas public education immediately after I retire. How long do I have to wait?

Your retirement will be revoked if you return to employment in Texas public education in any capacity during the month following the effective date of your retirement. Therefore, if you retire in August, you cannot return to work until October.

If your retirement date is May 31 but your contract or work agreement requires you to work into June but no later than June 15, you may not return to employment in Texas public education until August 1.

Waiving payment for service rendered during this time period is employment and revokes retirement. Volunteering to perform services that are normally provided by an employee may be considered employment that revokes retirement.

6. If I want to work as a substitute, how many days can I work?

For TRS purposes, a substitute is a person who serves on a daily, on-call basis in a TRS-covered position usually

filled by another regular employee. Also, salary earned cannot be more than the daily rate of substitute pay set by the employer. If your



employment meets those criteria, you may substitute an unlimited number of days during the school year, provided your substitute work does not begin until after the required break in service.

7. Can I work one-half time and continue to receive my monthly retirement annuity?

Yes, you can work one-half time or less each month and continue to receive your retirement annuity. Working one-half time means that you do not work more than one half the time required for the full-time job for that particular month.

If your employment is measured in clock hours, you must not work more than one half of the number of working hours in the month or 92 clock hours, whichever is less. For example, if the month you plan to work has 160 working hours, you can only work 80 hours.

If your one-half time work is driving a bus, you can only drive the bus for one half the number of working days in that particular calendar month. For example, December is a short month due to the Christmas holidays. If the school is only open for 10 working days, you could only drive the bus five days in that month.



Because the number of working days in each month is not always the same, the amount of time available to work may vary from month to month.

8. Can I substitute and work one-half time in the same calendar month?

Yes, so long as the total amount of time worked in both positions does not exceed one-half the amount of time available for the one-half time position for that particular month.

Example, if the calendar month has 160 working hours, on a one-half time basis you are allowed to work 80 hours that particular month. You can work as a substitute and one-half time in that month and not forfeit your monthly annuity as long as the total hours worked in both jobs does not exceed 80 hours. If you substitute any portion of the day, the day will count as one full 8 hour day of employment.

Example: If you teach 1 course out of a possible five courses, you are 20 percent employed in the calendar month. You may substitute 30 percent of the available days for the month. If there are 20 available days in the month, you may substitute six days in addition to teaching the one course without forfeiting your annuity payment for the month.



9. I plan to go back to work full time from September through June. How many retirement payments will I lose?

If you are going back to work full time, you will receive your retirement payment each month for the first six months you work each school year. You will forfeit your retirement payment for any month you work after the sixth month. This is called the “six-month exception” and is applied to the standard school year, which

is September through August. Therefore, based on your question, you will continue to receive your

monthly retirement payment for

**“6-MONTH
EXCEPTION”**

September through February, and you will forfeit your retirement payment for March through June if you continue to work in those months.

You cannot use the six-month exception in the same school year in which you retire. Therefore, if you retire in the months of September through August, you cannot use the six-month exception until the following September.

10. Can I work full time for more than six months and not lose my monthly retirement payment?

Yes, there are three ways a retiree may work full time for more than six months during the school year (September through August) and continue to receive his or her monthly retirement payment each month. These exceptions and the required qualifications are listed below:

Acute Shortage Area Exception - This exception is limited to certified classroom teachers employed in public schools. An acute shortage area is determined by the Board of Trustees of the school district based on guidelines provided by the Commissioner of Education.

Requirements:

- Retired without a reduction in benefits due to early age.
- Not worked in any position or capacity in Texas public education for a 12-consecutive-month period following the date of retirement.
- Employed to teach in an area designated as an acute shortage area.

- Certified by the State Board of Educator Certification (SBEC) to teach in the acute shortage area.

- Complete form TRS 581,

Certification for Employment After Retirement as a Classroom Teacher in an Acute Shortage Area or as a Principal/Assistant Principal. The

completed form is submitted to TRS by your employer.

- Teach one class per day in the acute shortage area.

Principal or Assistant Principal Exception -

Requirements:

- Retired without a reduction in benefits due to early age.
- Not worked in any position or capacity in Texas public education for a 12-consecutive-month period following the date of retirement.

- Certified under Subchapter B, Chapter 21, Education Code, to serve as principal.

- Employed as a principal or assistant principal.

- Complete form TRS 581, *Certification for Employment After Retirement as a Classroom Teacher in an Acute Shortage Area or as a Principal/Assistant Principal.* The completed form is submitted to TRS by your employer.

Bus Driver Exception -

Requirements:

- Retired without a reduction in benefits due to early age.

- Drive at least one daily TEA-approved route on a regular basis.



Note: Full-time employment for purposes of administering the employment-after-retirement laws is employment that exceeds one half the amount of time required for the full-time job for that particular month.

11. What is meant by employment through a “third-party entity”?

A third-party entity is an entity retained by a public educational institution to provide personnel to the institution who perform duties or provide services that employees of the institution would normally provide.

If you were employed by a third-party entity **before May 24, 2003** and continue to be so employed, your employment with a TRS-covered employer is not subject to the laws and rules governing return to work.

If you became employed by a third-party entity on or **after May 24, 2003** and are returning to work for a TRS-covered employer through the third-party entity, your employment is subject to the laws and rules governing return to work unless you do not perform duties or provide services on behalf of or for the benefit of the institution.

12. Can I work on a volunteer basis without forfeiting my monthly annuity?

The laws and rules governing employment after retirement do not address compensation paid but rather time worked.



Therefore, volunteering in a position normally filled by a regular employee may be considered employment and result in the loss of your retirement payment for that month(s).

13. I am planning to return to work as an independent contractor for my school district. How will that employment affect my monthly retirement payment?

Employment as an independent contractor is not subject to the laws and rules governing employment after retirement. Therefore, if you are an independent contractor rather than an employee, your employment is not to be reported to TRS. As an independent contractor, your monthly retirement payments will not be affected. As the characterization of your relationship with a school district as an independent contractor may impact laws such as those governing federal income tax and social security as well as TRS laws regarding your retirement benefits, you should carefully review the work arrangement to determine if you are an independent contractor. Consult your own attorney before entering into an agreement to make sure that the work arrangement does not jeopardize your eligibility for retirement and retirement benefits.



The following questions are for all disability retirees regardless of retirement date:

14. Is a disability retiree required to observe a break in service following retirement?

Yes, the retirement of a disability retiree will be revoked if there is a return to employment in Texas public education in any capacity during the month

following the effective date of retirement. Therefore, if a disability retiree retires in August, there cannot be a return to work until October.

If the retirement date is May 31 but the contract or work agreement requires work into June but no later than June 15, there cannot be a return to work until August 1.

Waiving payment for service during this time period is employment and revokes retirement. Volunteering to perform services that are normally provided by an employee may be considered employment that revokes retirement.

15. What are the work limitations for disability retirees?

Disability retirees may be employed in Texas public education for a maximum of 90 days per school year (September through August) in the following categories:

1. **Substitute** - For TRS purposes, a substitute is a person who serves on a daily, on-call basis in a TRS-covered position usually filled by another regular employee. Also, salary earned cannot be more than the daily rate of substitute pay set by the employer. If employment meets those criteria, a retiree may substitute up to 90 days during the school year.



2. **One-Half Time or Less** - Working one-half time means employment for no more than one-half the time required for the full-time job for that particular month. Refer to the definition of “One-Half Time Employment” given above.

3. Work as a substitute combined with work on a one-half time basis

and the combined employment for the month does not exceed the time allotted for the one-half time position.

In addition to the above, on a one-time only trial basis a disability retiree may work up to full time for a period of no more than three consecutive months in a school year (September through August) provided that:

- The work occurs in three consecutive months designated by the employee.
- The full-time employment is performed in a school year that begins after the disability retiree's effective date of retirement and the required break in service has been met.
- Written notice on form TRS 118D, *"Employment After Retirement Disability Election"* is submitted to TRS by the last day of the first month of full-time employment. Working any part of a month counts as a full month. This form can be found on the TRS Website under "Forms".



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(512) 542-6400 or 1-800-223-8778
or visit the TRS Web site
www.trs.state.tx.us